

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

PHILIP JOHN JONES,

Plaintiff,

v.

SACRAMENTO COUNTY,

Defendant.

No. 2:23-CV-0817-DMC-P

**ORDER**

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's first amended complaint, ECF No. 8.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). This provision also applies if the plaintiff was incarcerated at the time the action was initiated even if the litigant was subsequently released from custody. See Olivas v. Nevada ex rel. Dep't of Corr., 856 F.3d 1281, 1282 (9th Cir. 2017). The Court must dismiss a complaint or portion thereof if it: (1) is frivolous or malicious; (2) fails to state a claim upon which relief can be granted; or (3) seeks monetary relief from a defendant who is immune from such relief. See 28 U.S.C. § 1915A(b)(1), (2). Moreover, the Federal Rules of Civil Procedure require that complaints contain a ". . . short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). This means that claims must be stated simply,

1 concisely, and directly. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996) (referring to  
 2 Fed. R. Civ. P. 8(e)(1)). These rules are satisfied if the complaint gives the defendant fair notice  
 3 of the plaintiff’s claim and the grounds upon which it rests. See Kimes v. Stone, 84 F.3d 1121,  
 4 1129 (9th Cir. 1996). Because Plaintiff must allege with at least some degree of particularity  
 5 overt acts by specific defendants which support the claims, vague and conclusory allegations fail  
 6 to satisfy this standard. Additionally, it is impossible for the Court to conduct the screening  
 7 required by law when the allegations are vague and conclusory.

## 8 9 **I. PLAINTIFF’S ALLEGATIONS**

10 Plaintiff names Sacramento County and “John Doe 1-15” as defendants to this  
 11 action.<sup>1</sup> See ECF No. 8, pg. 1. Plaintiff alleges that, on May 17, 2021, he was attacked by  
 12 another inmate “who was not housed correctly by Defendants John Does 1-15.” Id. at 3.  
 13 According to Plaintiff, he was not supposed to be housed in a dorm setting due to mental illness.  
 14 See id.

## 15 16 **II. DISCUSSION**

17 The Court finds that Plaintiff has not stated a cognizable claim against the only  
 18 defendant named in the amended complaint – Sacramento County.

19 Municipalities and other local government units, like Sacramento County, are  
 20 among those “persons” to whom § 1983 liability applies. See Monell v. Dep’t of Soc. Servs., 436  
 21 U.S. 658, 690 (1978). Counties and municipal government officials are also “persons” for  
 22 purposes of § 1983. See id. at 691; see also Thompson v. City of Los Angeles, 885 F.2d 1439,  
 23 1443 (9th Cir. 1989). A local government unit, however, may not be held responsible for the acts  
 24 of its employees or officials under a respondeat superior theory of liability. See Bd. of County

---

25  
 26 <sup>1</sup> In the original complaint, Plaintiff named Jim Cooper, the Sacramento County  
 27 Sheriff, as the only defendant. See ECF No. 1. Because the amended complaint supersedes the  
 28 original complaint, and because Jim Cooper is no longer named, the Clerk of the Court will be  
 directed to terminate Jim Cooper as a defendant to this action and to update the docket to reflect  
 the defendant named in the first amended complaint, Sacramento County.

1 Comm'rs v. Brown, 520 U.S. 397, 403 (1997). Thus, municipal liability must rest on the actions  
 2 of the municipality, and not of the actions of its employees or officers. See id. To assert  
 3 municipal liability, therefore, the plaintiff must allege that the constitutional deprivation  
 4 complained of resulted from a policy or custom of the municipality. See id.

5 Here, the amended complaint does not contain any allegations to support  
 6 municipal liability. Specifically, Plaintiff has not alleged the existence of some policy or custom  
 7 of Sacramento County which resulted in Plaintiff's injury. Plaintiff will be provided leave to  
 8 amend to either state a cognizable claim against Defendant Sacramento County or to name the  
 9 individual deputies alleged to be involved.

### 11 III. CONCLUSION

12 Because it is possible that the deficiencies identified in this order may be cured by  
 13 amending the complaint, Plaintiff is entitled to leave to amend prior to dismissal of the entire  
 14 action. See Lopez v. Smith, 203 F.3d 1122, 1126, 1131 (9th Cir. 2000) (en banc). Plaintiff is  
 15 informed that, as a general rule, an amended complaint supersedes the original complaint. See  
 16 Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992). Thus, following dismissal with leave to  
 17 amend, all claims alleged in the original complaint which are not alleged in the amended  
 18 complaint are waived. See King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987). Therefore, if  
 19 Plaintiff amends the complaint, the Court cannot refer to the prior pleading in order to make  
 20 Plaintiff's amended complaint complete. See Local Rule 220. An amended complaint must be  
 21 complete in itself without reference to any prior pleading. See id.

22 If Plaintiff chooses to amend the complaint, Plaintiff must demonstrate how the  
 23 conditions complained of have resulted in a deprivation of Plaintiff's constitutional rights. See  
 24 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). The complaint must allege in specific terms how  
 25 each named defendant is involved, and must set forth some affirmative link or connection  
 26 between each defendant's actions and the claimed deprivation. See May v. Enomoto, 633 F.2d  
 27 164, 167 (9th Cir. 1980); Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

28 ///

1 Finally, Plaintiff is warned that failure to file an amended complaint within the  
2 time provided in this order may be grounds for dismissal of this action. See Ferdik, 963 F.2d at  
3 1260-61; see also Local Rule 110. Plaintiff is also warned that a complaint which fails to comply  
4 with Rule 8 may, in the Court's discretion, be dismissed with prejudice pursuant to Rule 41(b).  
5 See Nevijel v. North Coast Life Ins. Co., 651 F.2d 671, 673 (9th Cir. 1981).

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's first amended complaint is dismissed with leave to amend; and
- 8 2. Plaintiff shall file a second amended complaint within 30 days of the date  
9 of service of this order.

10  
11 Dated: January 23, 2024



12 DENNIS M. COTA  
13 UNITED STATES MAGISTRATE JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28